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Testimony of  
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Oversight Hearing on State Taxation of Interstate Telecommunications Services

House Committee on the Judiciary  
Subcommittee on Commercial and Administrative Law

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Chairman Cannon, Representative Watt, and members of the subcommittee, thank you for this opportunity to testify on an issue of real importance to millions of consumers, small and large businesses, communications service providers, and the US economy.

My name is Scott Mackey and I am an economist and partner at Kimbell Sherman Ellis LLP. Over the past six years, I have worked as a consultant to major wireless telecommunications providers to reduce or eliminate excessive and discriminatory taxes on communications services at the state and local level. It has been a frustrating experience to say the least, because while state and local government officials recognize that this is a major problem, with one notable exception, there has been no progress in reducing the tax burden on communications users. In fact, excessive and discriminatory taxation of communications consumers has gotten worse.

The underlying principle that the communications industry seeks on behalf of its customers is tax fairness. Quite simply, the industry believes that consumers of communications services should be taxed like consumers of other goods and taxable services. The industry is not asking that its customers be exempt from paying taxes, just that customers not be targeted with excessive and discriminatory taxes. Unfortunately, throughout the country, most consumers of communication services pay some type of excessive and discriminatory tax. Many consumers do not know that they are paying these excessive taxes. However, when told that such taxes greatly exceed those imposed on other goods and services, consumers believe these taxes are unfair.

In my testimony today I seek to identify four areas of concern:

- 1) Establish that the problem of excessive and discriminatory taxation of communications consumers is a real problem – one that is getting worse, not better

and needs to be addressed at a national level;

- 2) Discuss how the communications industry has worked with state and local elected officials for at least the last seven years to address this problem with very little to show for these efforts;
- 3) Explain how discriminatory and excessive state and local taxes on communications services hurt consumers (especially young and old consumers of modest means) and reduce capital investment in the communications infrastructure at a time when economic development experts believe such investment is critical to the US economy;
- 4) Discuss the benefits to consumers and the entire US economy of a federal policy that prevents states and local governments from burdening communications consumers with excessive and discriminatory taxes.

### **The Problem of Excessive and Discriminatory Taxation of Communications Services**

The first comprehensive attempt to catalog the tax burden on communication services providers and their customers was published in September 1999 by the Committee on State Taxation (COST). This landmark study found that consumers of telecommunications services paid effective state/local tax rates that were more than twice those imposed on taxable goods sold by general business (13.74% vs. 6%). Including federal taxes, the tax burden was nearly three times higher than general business. In addition, due to the sheer number of different state and local taxes imposed in many jurisdictions, the typical communications service provider was required to file seven to eight times as many tax returns compared to those filed by typical businesses (63,879 vs. 8,951 annually).

I published a follow-up study in *State Tax Notes* in July 2004 using the COST study methodology to examine in more detail the tax burden on wireless customers. Its findings were consistent with the COST study – that wireless customers faced tax burdens that were, on average, two to three times higher than general business. The full study is attached as Appendix A.

Table 1 ranks the tax burdens on wireless consumers by state as of July 1, 2005:

# Federal, State & Local Taxes, Fees, and Charges on Wireless

1-Jul-05

State	State-Local		Gen'l Bus.	State-Local	Federal	Fed/State/Local	Fed/State/Local
	Effective	Rank	Effective	vs. Gen'l	Effective	Effective	vs. General
	Tax Rate		Tax Rate	Business	Tax Rate	Tax Rate	Business
Nebraska	18.72%	1	7.00%	11.72%	5.91%	24.63%	17.63%
Washington	17.48%	2	8.60%	8.88%	5.91%	23.39%	14.79%
New York	16.09%	3	8.38%	7.71%	5.91%	22.00%	13.62%
Florida	16.08%	4	7.00%	9.08%	5.91%	21.99%	14.99%
Texas	15.13%	5	8.25%	6.88%	5.91%	21.04%	12.79%
Rhode Island	14.49%	6	7.00%	7.49%	5.91%	20.40%	13.40%
California	14.10%	7	8.00%	6.10%	5.91%	20.01%	12.01%
Pennsylvania	13.47%	8	6.50%	6.97%	5.91%	19.38%	12.88%
Utah	13.00%	9	6.43%	6.57%	5.91%	18.91%	12.48%
Illinois	12.72%	10	8.00%	4.72%	5.91%	18.63%	10.63%
South Dakota	11.79%	11	6.00%	5.79%	5.91%	17.70%	11.70%
District of Columbia	11.50%	12	5.75%	5.75%	5.91%	17.41%	11.66%
Tennessee	11.47%	13	8.25%	3.22%	5.91%	17.38%	9.13%
Kansas	11.46%	14	7.38%	4.08%	5.91%	17.37%	9.99%
Arkansas	11.07%	15	8.38%	2.69%	5.91%	16.98%	8.60%
North Dakota	10.82%	16	6.25%	4.57%	5.91%	16.73%	10.48%
Missouri	10.45%	17	6.88%	3.57%	5.91%	16.36%	9.48%
Maryland	10.43%	18	5.00%	5.43%	5.91%	16.34%	11.34%
Arizona	10.03%	19	7.85%	2.18%	5.91%	15.94%	8.09%
Oklahoma	9.83%	20	8.45%	1.38%	5.91%	15.74%	7.29%
Colorado	9.59%	21	6.25%	3.34%	5.91%	15.50%	9.25%
Kentucky	9.04%	22	6.00%	3.04%	5.91%	14.95%	8.95%
Mississippi	8.97%	23	7.00%	1.97%	5.91%	14.88%	7.88%
Indiana	8.83%	24	6.00%	2.83%	5.91%	14.74%	8.74%
Minnesota	8.54%	25	7.00%	1.54%	5.91%	14.45%	7.45%
South Carolina	8.43%	26	6.25%	2.18%	5.91%	14.34%	8.09%
New Mexico	8.37%	27	7.03%	1.34%	5.91%	14.28%	7.25%
New Hampshire	7.83%	28	0.00%	7.83%	5.91%	13.74%	13.74%
Georgia	7.80%	29	7.00%	0.80%	5.91%	13.71%	6.71%
New Jersey	7.78%	30	6.00%	1.78%	5.91%	13.69%	7.69%
Hawaii	7.69%	31	4.00%	3.69%	5.91%	13.60%	9.60%
North Carolina	7.58%	32	6.50%	1.08%	5.91%	13.49%	6.99%
Virginia	7.41%	33	5.00%	2.41%	5.91%	13.32%	8.32%
Alabama	7.38%	34	8.00%	-0.62%	5.91%	13.29%	5.29%
Maine	7.29%	35	5.00%	2.29%	5.91%	13.20%	8.20%
Vermont	7.27%	36	6.00%	1.27%	5.91%	13.18%	7.18%
Wyoming	7.10%	37	5.50%	1.60%	5.91%	13.01%	7.51%
Michigan	7.03%	38	6.00%	1.03%	5.91%	12.94%	6.94%
West Virginia	6.92%	39	6.00%	0.92%	5.91%	12.83%	6.83%
Ohio	6.88%	40	6.88%	0.00%	5.91%	12.79%	5.91%
Iowa	6.84%	41	5.50%	1.34%	5.91%	12.75%	7.25%
Connecticut	6.39%	42	6.00%	0.39%	5.91%	12.30%	6.30%
Massachusetts	5.59%	43	5.00%	0.59%	5.91%	11.50%	6.50%
Wisconsin	5.55%	44	5.55%	0.00%	5.91%	11.46%	5.91%
Delaware	5.43%	45	0.00%	5.43%	5.91%	11.34%	11.34%
Montana	4.93%	46	0.00%	4.93%	5.91%	10.84%	10.84%
Louisiana	4.33%	47	9.00%	-4.67%	5.91%	10.24%	1.24%
Alaska	3.73%	48	2.50%	1.23%	5.91%	9.64%	7.14%
Oregon	1.68%	49	0.00%	1.68%	5.91%	7.59%	7.59%
Idaho	1.62%	50	5.00%	-3.38%	5.91%	7.53%	2.53%
Nevada	1.09%	51	7.13%	-6.04%	5.91%	7.00%	-0.13%
<b>US AVG</b>	<b>9.12%</b>		<b>6.05%</b>	<b>3.07%</b>	<b>5.91%</b>	<b>15.03%</b>	<b>8.98%</b>
(simple avg.)							

Assumptions: Flat rate taxes and fees -- use average monthly bill of \$50.64 to calculate effective tax rates.

Federal: 3% FET and 2.92% USF (10.2% contribution factor for 2005 Q3 x 28.5% hold harmless)

An update to the COST study found that the average state/local tax burden had grown from 13.74% in 2000 to 14.17% in 2004, as compared to an increase from 6.0% to 6.12% for general business. For wireless, the average burden increased from 8.38% in 2003 to 9.12% in 2005. Furthermore, when the tax burden is weighted by state population, the wireless effective rate increased from 10.20 % on January 2003 to 10.94% in July 2005. At the same time, the tax rate on general businesses increased only slightly, from 6.87% to 6.94%. Clearly, the problem of discriminatory taxes on communications services is getting worse.

During this period, several states had large increases in the tax burdens imposed on communications customers. Pennsylvania added a 5% gross receipts tax on wireless and interstate long distance service beginning in 2004. This tax was added despite the fact that telecommunications service is already subject to the 6% state sales tax. South Dakota added a 4% gross receipts tax on wireless service, again subjecting customers to a “double tax” of both the sales taxes and gross receipts tax. Kentucky imposed a new 1.3% gross receipts tax on communications services, although the bill eliminated other discriminatory taxes. Just this spring, Texas adopted a new gross receipts tax of at a rate of 1% on telecommunications providers but only ½% on general business.

Baltimore City imposed a new \$3.50 per month “line charge” on phone bills in 2004, while Montgomery County Maryland added a \$2.00 monthly charge. The City Council in Corvallis, Oregon has just voted to impose a new 5% discriminatory tax on telecommunications users, notwithstanding that there is no comparable tax on general business. In Missouri, local governments are trying through court action to impose local business license taxes at rates as high as 10%, even though license taxes on general businesses are typically well below 1%.

These increases in the tax burden on communications service customers have been adopted despite the fact that state and local governments have enjoyed very solid revenue performance during the last three years. For example, the Center for the Study of the States reported that quarterly state tax collections have grown, on average, by 9.7 percent since January 1, 2004. At the local level, rapid and sustained growth in property values has pumped property tax revenues into local government coffers across the country.

### **Efforts to Address This Problem with State and Local Governments**

As Congress studies this problem and considers what action should be taken to protect consumers and the economy, it is fair to ask whether communications providers have attempted to address remedies to the excessive consumer taxes directly with state and local governments. The answer is unequivocally yes. In fact, for almost a decade, communications service providers have engaged in a dialogue with representatives of state and local government organizations – and state legislatures – actively trying to address the problem.

The Advisory Commission on Electronic Commerce was formed by Congress in 1998 as part of the original Internet Tax Freedom Act to examine issues surrounding the taxation on Internet access, electronic commerce, and communications. The Commission held hearings on these issues throughout 1998 and 1999. In 1999, the communications industry testified before

the commission on the impact of excessive and discriminatory taxation of communication services, the communications infrastructure needed to build out networks, and the daunting compliance burden placed upon providers asking the commission to prod states toward substantial reform in these areas.

One commission member, California State Board of Equalization member Dean Andal, suggested that the Commission recommend that Congress pass legislation outlawing discriminatory taxation of communications services by state and local governments. However, at that time industry did not support the Andal approach because state and local organizations had expressed support for working jointly with the industry on reforming excessive taxes on communication consumers. At that time, the industry believed that working together with state and local governments would achieve the needed reform.

As a result of the Commission members' failure to reach a 2/3 majority consensus, the Commission ultimately did not forward any recommendations to Congress. However, the communications industry used the Commission's work as a springboard to reach out to key government organizations such as the National Conference of State Legislatures (NCSL) and the National Governors' Association (NGA) – as well as the local organizations – to promote reduction of taxes on its consumers. As a result of the ongoing dialogue, both the NGA and the NCSL issued policy positions, approved by their respective memberships, calling for states to eliminate excessive and discriminatory taxes on the communications industry and its consumers.

Particularly relevant to today's discussion are two of the policy principles adopted by the NCSL membership in 2000 and reaffirmed in 2004:

- **Tax Equity:** *Under a uniform, competitively neutral system, industry-specific telecommunications taxes are no longer justified.*
- **Tax Fairness:** *With the blurring of distinctions between various services and technologies, state and local governments must strive to set tax burdens on telecommunications services, property and providers that are no greater than those tax burdens imposed on other competitive services and the general business community.*

In 2005, recognizing that efforts to reduce state and local taxes on users of communications services were going nowhere, the National Governors' Association invited the industry and state and local organizations to participate in a new series of negotiations to address the problem. After months of negotiations, it became clear that some of the major local government organizations were unwilling to agree to any reforms that eliminate the authority of localities to impose excessive taxes on communications customers.

The communications industry also worked with individual state legislatures in key states to address the issue. Unfortunately, most of these efforts were unsuccessful. Just in the last year alone, reform bills failed to pass in Florida, Illinois, Oregon, and South Dakota. In Pennsylvania, a bill to repeal the gross receipts tax has passed the House but has been stalled in the state Senate.

The notable exception to this lack of success in reducing excessive taxes is Virginia. In 2006, the Virginia General Assembly passed legislation replacing a myriad of local taxes and fees with a single, state-collected tax imposed at the same rate paid by general business. This reform eliminated local taxes that were as high as 28% on customers in certain cities with a new tax of 5% on all types of communications services. Under this new law, which takes effect on January 1<sup>st</sup>, consumers of all communications services – wireless, wireline, and cable – will no longer pay excessive tax rates on communications services. This legislation could serve as a model for action in other states.

## **The Economic Impact of Excessive Taxation of Communications Services**

There are two separate, but very important, economic impacts that need to be thoroughly analyzed in light of the excessive taxes imposed on communications services. The first is the distributional impact on consumers. The second is the economic impact of excessive taxes on consumer demand and the availability of capital to “build out” advanced communications networks.

There is no dispute that state and local taxes on communications consumers are highly regressive. Simply stated, lower income consumers, e.g., seniors on social security, pay a much higher proportion of their incomes in communications taxes than do higher income consumers. When many of these taxes were first imposed 50 or even 100 years ago, telephone service was considered a luxury only afforded by the rich. Today, communication services are a necessity and other state and federal policies help ensure that every American household has such services at a reasonable cost.

While most consumption taxes are regressive by nature, it is unfortunate when regressive taxes are imposed on a service that society has deemed a necessity. Many states, for example, exempt food from sales and use taxes to mitigate the overall regressivity of the sales tax. Unfortunately, in the case of communications services, consumers in many states face layer upon layer of regressive taxes.

A disturbing trend is making this problem worse. In the last few years, some jurisdictions have imposed flat “per line” taxes, such as Baltimore’s new \$3.50 per month tax. These taxes take an already regressive tax and make it much worse. In the case of Baltimore, \$3.50 per month on a \$25 monthly calling plan is a 14% tax rate on that plan but only 3.5% on a \$100 monthly calling plan. When the state sales tax of 5% is added on, the consumer on a \$25 monthly plan in Baltimore is paying an effective tax rate of 19%! And if that consumer has a family plan with multiple lines, the \$3.50 applies to each line. Several wireless providers allow consumers to add an additional line for as little as \$9.99 per month. The tax rate on that additional line is a staggering 35%!

Reducing consumer taxes to the same rate charged on other goods and services would not completely eliminate the regressive nature of taxes on communication services, but it would make such taxes much less burdensome on low and fixed income households.

The second issue is the broad impact of excessive taxation on consumer expenditures, company revenues, and the availability of capital for investment in broadband networks.

The economic impact of excessive taxation of communications services has changed as the industry has evolved from a rate-regulated utility model to a competitive model. Both policymakers and technology have driven this evolution.

Under the monopoly model, many state and local taxes were embedded within the rate structure that was approved by regulatory bodies. Most consumers were unaware that these taxes were being collected and remitted to state and local governments. In addition, demand for voice telephone service was not very responsive to price changes, so taxes had very little impact on consumer demand for such service. Also, since company revenues and rates of return were guaranteed by the regulators, excessive taxes did not significantly reduce cash flow available for investment or increase the cost of capital.

In today's marketplace, consumers have competition and choice. They have a choice of providers. They have a choice of many different technologies and platforms. Additionally, since communication services have evolved far beyond just voice communications, consumers also have choices in how to spend their discretionary entertainment dollars.

For example, a technology savvy teenager can communicate with friends by making a call from their home phone or their wireless phone. Perhaps instead they can send a text instant message or a voice instant message. They can call on VOIP service that connects with the public switched telephone network ("PSTN"), or a VOIP service that never touches the PSTN.

The emergence of competition and choice has been a significant factor in subjecting consumer demand for communication services to price sensitivities, with important implications for communications service providers. This means that state and local taxes that add 20% to customer bills reduce consumer purchases significantly. A study by economists Greg Sidak and Allan Ingraham found that each 1 percent increase in the price of wireless service reduces consumer demand by between 1.12 and 1.29 percent. When a state like Florida or New York imposes a 16 percent tax, demand is reduced by as much as 20 percent.

Tax-induced reductions in demand reduce cash flows available for investment in broadband networks. Communications service provider must compete in global capital markets for more costly capital to finance the needed network investment. Quite simply, there is less money to invest in broadband networks that benefit the entire economy due to excessive taxation.

The communications industry plays a critical role in the US economy because of its beneficial impact on the productivity of businesses. A 2005 study by *Ovum and Indepen* found that the information technology, computers and telecommunications services sectors were responsible for 80 percent of the productivity growth in the United States in 2004.

Productivity is simply a measure of output per worker, and strong productivity growth generates important economic benefits. It boosts incomes, living standards, capital formation, and overall economic growth. In the late 1990s, the rapid productivity growth due to the

emergence of the Internet and electronic commerce was widely credited with fueling the robust economic expansion.

Just as the initial development of the Internet was the driver of productivity in the late 1990s, broad deployment of high speed advanced communications networks and applications are the drivers of productivity growth today. Tax and regulatory policies that promote investment in such communications networks and applications will generate important economic benefits. Conversely, policies that increase the cost of investment or otherwise slow investment in communications infrastructure will delay important economic benefits

Consumers benefit greatly from additional investment in communications networks because competition among providers reduces prices. Numerous recent studies have found that broadband penetration in the United States is well behind many of our global competitors. Additional investment in broadband networks will bring high speed networks to businesses and consumers that lack a single provider today, as well as bringing competition and lower prices to businesses and consumers served by one or more providers today.

State and local governments recognize the importance of advanced communications networks because they are subsidizing these networks. Yet at the same time they are imposing excessive consumer taxes that retard the build out of these networks. Reducing taxes on communications consumers to the same rate as general business could have a much more powerful impact on the development of advanced communications networks than direct subsidies.

### **The Benefits of Fair Taxation of Communications Services**

A national policy that requires state and local governments to tax communications services at the same rates as general businesses will have important benefits for consumers and the United States economy.

Lower consumer taxes will eliminate the most regressive elements of the current system, providing immediate benefits to households that need them the most. No longer will our poorest wage earners and citizens on fixed income that rely on communications services for health, safety, and security be subject to excessive and regressive taxation.

Lower consumer taxes will stimulate new investment in broadband networks by increasing consumer demand for communications services, providing more revenues for investment in faster, more reliable, more robust communications networks. Every business and consumer will reap the economic benefits of this new investment. Rural and underserved areas will benefit the most. It is no secret that India and other emerging economic powerhouses have tied their fortunes to broadband communication networks.

In fact, the economic growth that is spurred by additional investments in communication networks will mitigate much of the revenue losses that are keeping states and local governments from eliminating excessive and discriminatory communications taxes. A national policy

providing for fair taxation of communications services is a win for consumers, a win for low income people, a win for rural and underserved areas, and a win for the US economy.

Thank you again, Chairman Cannon and Representative Watt, for holding this hearing today.

# **Attachments**

# **The Excessive State and Local Tax Burden On Wireless Telecommunications Service**

*by Scott Mackey*

*Scott Mackey is an economist with Kimbell Sherman Ellis in Montpelier, Vt., where he consults on state and local tax policy for major wireless telecommunications providers. His clients include ALLTEL, AT&T Wireless, Cingular Wireless, Nextel Communications, Sprint, T-Mobile USA, Verizon Wireless, and Western Wireless. Prior to joining KSE, he was chief economist for the National Conference of State Legislatures in Denver. The opinions expressed in this article are his own and do not necessarily represent the views of the clients he represents.*

### **Introduction**

Nearly four years after the National Governors' Association<sup>1</sup> (NGA) and the National Conference of State Legislatures<sup>2</sup> (NCSL) urged states to reform and modernize their telecommunications taxes, most states have failed to enact meaningful reforms of the excessive taxes on telecommunications customers. In fact, several states have expanded the use of telecommunications-specific taxes on wireless and other telecommunications services. While a few states have passed reforms to centralize collection of local telecommunications taxes and reduce administrative burdens on providers, they have done so while preserving excessively high transaction taxes on telecommunications service.

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### ***Most states have failed to enact meaningful reforms of the excessive taxes on telecommunications customers.***

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Many of the taxes imposed by state and local governments are throwbacks to the monopoly telecommunications era. These taxes are levied at rates significantly above those of consumption taxes (typically sales and use taxes) on other goods and taxable services. Despite the fact that congressional policy enabled the U.S. wireless industry to develop as a

competitive industry, state and local policymakers continue to impose monopoly-era telecommunications taxes on wireless service in the interest of "competitive neutrality" with other types of telecommunications service. A more appropriate policy would be the elimination of excessive taxes on all telecommunications service, not the expansion of excessive taxes to wireless service.

The imposition of double-digit state and local transaction taxes on the wireless industry — the current practice in 19 states — raises important equity questions. Beyond equity issues, however, there are critical economic issues raised by excessive state and local tax burdens on the competitive wireless industry. Excessive telecommunications taxes were first levied in an era of monopoly service when customer demand was price-inelastic, meaning that customer demand was not at all responsive to price. Under these market conditions, an additional tax could be imposed on the company and passed on to consumers as higher prices without significantly reducing demand for the service.

The wireless industry, like any other competitive, technology-based industry, is ill-suited for this type of taxation because consumer demand is price-sensitive (price-elastic in the language of economists). Recent studies have estimated that the price elasticity of demand for wireless service is between -1.12 percent and -1.29 percent,<sup>3</sup> meaning that every 1 percent increase in price reduces demand for the service by between 1.12 percent and 1.29 percent. When a state like Florida or New York imposes a 16 percent tax on wireless service, demand for wireless service is reduced by between 17.9 percent and 20.7 percent.

Some state policymakers have questioned whether excessive taxes have hurt the wireless industry given the rapid subscriber growth of the industry between the mid-1990s and today. Some have even gone so far as to suggest that new wireless taxes do not hurt the industry because, after all, companies are giving away free phones. Statements such as these reflect a poor understanding of how the wireless industry has evolved.

The wireless industry invested billions of dollars "up front" to purchase spectrum licenses and spent billions more to build wireless networks from scratch. Conversely, the wire-line telecommunications network was built under a regulatory

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<sup>1</sup> Scott Paladino, "Telecommunications Tax Policies: Implications for the Digital Age," National Governors' Association, Feb. 2, 2000. Available online at: <http://www.nga.org/cda/files/000202TELECOM.PDF>.

<sup>2</sup> National Conference of State Legislatures. Policy adopted July 19, 2000, at NCSL Annual Meeting, Chicago. Available online at: <http://www.ncsl.org/programs/fiscal/tresolv03.htm>.

<sup>3</sup> Sidak, J. Gregory and Allan T. Ingraham, "Do States Tax Wireless Service Inefficiently: Evidence on the Price Elasticity of Demand." Washington: American Enterprise Institute, April 2003. Available at [http://www.aei.org/publications/filter.all.pubID.20327/pub\\_detail.asp](http://www.aei.org/publications/filter.all.pubID.20327/pub_detail.asp).

structure in which infrastructure investments were approved by regulators and returns on those investments were guaranteed under “rate of return” regulation of prices. Wireless providers had no such guarantees, and some wireless companies are just now starting to turn profitable after years of losses, while others have yet to break even.

It is true that the number of wireless subscribers has grown from 16 million to 163 million over the last decade.<sup>4</sup> During this same period, the average cost of wireless service has dropped from over 47 cents per minute to about 10 cents per minute.<sup>5</sup> Wireless subscriber growth has been driven by major reductions in the price of wireless service, the rollout of national pricing plans, the expansion of coverage in unserved and underserved areas, and consumer preferences. Much of the expansion in the number of wireless subscribers is attributable to rapid reductions in the average cost per minute of service. Competition and the development of nationwide calling networks have been key factors in lowering consumer prices.

The question for policymakers and the industry is this: “How much have excessive taxes on wireless customers slowed industry growth below what it would have been if wireless service had been subject only to sales and use taxes, and what impact have excessive taxes had on wireless infrastructure investments?”

State policymakers frequently use tax policy to discourage demand for a product, such as levying excise taxes on cigarettes or alcoholic beverages. Ironically, in the case of wireless and other telecommunications services, state-elected officials and economic development specialists are intent on expanding investment in telecommunications infrastructure to expand the availability of “broadband” service to more households and businesses. At the same time, many states and localities impose excessive taxes that actually discourage the investment that economic development experts are trying to attract.<sup>6</sup> State tax policies that impose high state and local taxes on wireless service work against states’ economic development interests by slowing investment in wireless networks, because tax-induced reductions in demand reduce cash flow available for capital investment.

This report examines recent trends in state and local taxation of wireless telecommunications service and the detrimental impact of such taxes on demand for wireless service and investment in the wireless infrastructure. It discusses recent state telecommunications tax reforms in the states and why most reform efforts have ignored high tax rates on telecommunications services. Finally, it suggests ways that states and local governments can be weaned from their reliance on excessive telecommunications taxes.

### The Wireless Tax Burden in Detail

For this report, the author calculated the tax burden on wireless customers using the method from the 1999 Committee On State Taxation (COST) study, “50-State Study and Report

on Telecommunications Taxation.”<sup>7</sup> It includes transaction taxes such as sales and use taxes, telecommunications excise taxes, 911 fees, universal service fees, and other regulatory fees. It also includes gross receipts taxes that are passed on to customers. In order to facilitate comparisons between states, the study uses the COST report’s method and averages local tax rates from the state’s largest city and the state’s capital city to approximate a state’s local taxes. In the case of flat-rate impositions, such as a 50-cent-per-month tax, the report uses the Cellular Telecommunications and Internet Association’s estimate of the average monthly revenue per customer (in this case, \$48.40 per month) to convert the flat rate to a percentage calculation.

Table 1 shows the effective tax rate on wireless customers in 50 states and the District of Columbia, ranked from highest to lowest. Detail on the specific type of tax and the rate in each state is provided in Appendix A (p. 189).

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### *The effective rate of taxation on wireless service increased nine times faster than the rate on other taxable goods and services between January 2003 and April 2004.*

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The average state and local transaction tax burden on wireless service stands at 8.84 percent, up nearly half a percentage point from the average rate of 8.38 percent at the end of 2002. In contrast, the average state and local sales and use tax rate imposed on taxable goods and services increased from 5.99 percent to 6.04 percent during the same period. The effective rate of taxation on wireless service, already significantly above the rate imposed on other goods and services taxable under sales and use taxes, increased nine times faster than the rate on other taxable goods and services between January 2003 and April 2004.

The effective rate on wireless is even higher when the rates are weighted by state population, with an effective tax rate of 10.74 percent compared with 6.93 percent for other taxable goods and services. The weighted average rate provides a more accurate indicator of what the “typical” wireless customer pays in taxes. Table 2 (p. 184) shows the different average effective rates for wireless service as compared with the general sales tax, and how those rates have changed between 2003 and 2004.

Table 3 (p. 185) shows why the effective tax rate is higher when weighted for state population. Customers in the states with the largest populations tend to be those facing the highest effective tax rates. All five of the most populous states have rates significantly above the national average. Six of the 10 most populated states — California, New York, Texas, Florida, Illinois, and Pennsylvania — are also on the list of the 10 highest tax rates on wireless customers.

State and local tax rates only tell part of the story of the tax burden on wireless service. Wireless carriers are also subject

*(Text continued on p. 184.)*

<sup>4</sup> Cellular Telecommunications and Internet Association. Washington. Available at <http://www.ctia.org>.

<sup>5</sup> Federal Communications Commission, “8th Annual Commercial Mobile Radio Service Competition Report.” July 2003, page 46. Report available at: [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-03-150A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-03-150A1.pdf).

<sup>6</sup> For an example, see “Vermont Telecommunications Plan,” Vermont Department of Public Service, Public Comment Draft, March 2004. Available at <http://www.state.vt.us/psd>.

<sup>7</sup> “50-State Study and Report on Telecommunications Taxation.” Washington: Committee On State Taxation, Sept. 14, 1999 (updated November 29, 2000). (This report was published in *State Tax Notes*, Jan. 8, 2001, p. 99; at 2001 STT 5-34; and at Doc 2001-847.)

**Table 1**  
**Federal/State/Local Taxes on Wireless Service — April 1, 2004**

	<b>State-Local</b>	<b>Federal Excise Tax</b>	<b>Federal USF*</b>	<b>Total</b>
New York	16.23%	3.0%	2.48%	21.71%
Florida	16.12%	3.0%	2.48%	21.60%
Washington	16.04%	3.0%	2.48%	21.52%
Illinois	15.57%	3.0%	2.48%	21.05%
Nebraska	15.13%	3.0%	2.48%	20.61%
Texas	14.19%	3.0%	2.48%	19.67%
Rhode Island	14.07%	3.0%	2.48%	19.55%
Pennsylvania	13.57%	3.0%	2.48%	19.05%
California	13.18%	3.0%	2.48%	18.66%
District of Columbia	12.57%	3.0%	2.48%	18.05%
South Dakota	12.01%	3.0%	2.48%	17.49%
Tennessee	11.57%	3.0%	2.48%	17.05%
Missouri	11.12%	3.0%	2.48%	16.60%
Arizona	11.06%	3.0%	2.48%	16.54%
North Dakota	10.94%	3.0%	2.48%	16.42%
Wyoming	10.67%	3.0%	2.48%	16.15%
Kansas	10.32%	3.0%	2.48%	15.80%
Utah	10.25%	3.0%	2.48%	15.73%
Arkansas	10.21%	3.0%	2.48%	15.69%
Kentucky	9.98%	3.0%	2.48%	15.46%
Indiana	9.62%	3.0%	2.48%	15.10%
Oklahoma	9.58%	3.0%	2.48%	15.06%
Colorado	9.37%	3.0%	2.48%	14.85%
Mississippi	9.07%	3.0%	2.48%	14.55%
Minnesota	8.10%	3.0%	2.48%	13.58%
New Hampshire	7.87%	3.0%	2.48%	13.35%
Virginia	7.75%	3.0%	2.48%	13.23%
North Carolina	7.65%	3.0%	2.48%	13.13%
Georgia	7.64%	3.0%	2.48%	13.12%
New Mexico	7.63%	3.0%	2.48%	13.11%
Ohio	7.63%	3.0%	2.48%	13.11%
Alabama	7.45%	3.0%	2.48%	12.93%
Vermont	7.27%	3.0%	2.48%	12.75%
Maryland	7.07%	3.0%	2.48%	12.55%
Michigan	7.07%	3.0%	2.48%	12.55%
Iowa	6.53%	3.0%	2.48%	12.01%
Maine	6.53%	3.0%	2.48%	12.01%
South Carolina	6.50%	3.0%	2.48%	11.98%
Connecticut	6.41%	3.0%	2.48%	11.89%
Hawaii	6.14%	3.0%	2.48%	11.62%
New Jersey	6.00%	3.0%	2.48%	11.48%
Massachusetts	5.63%	3.0%	2.48%	11.11%
Wisconsin	5.55%	3.0%	2.48%	11.03%
Delaware	5.49%	3.0%	2.48%	10.97%
Montana	4.99%	3.0%	2.48%	10.47%
Louisiana	4.39%	3.0%	2.48%	9.87%
Alaska	4.05%	3.0%	2.48%	9.53%
Oregon	2.27%	3.0%	2.48%	7.75%
Idaho	2.23%	3.0%	2.48%	7.71%
West Virginia	1.94%	3.0%	2.48%	7.42%
Nevada	1.14%	3.0%	2.48%	6.62%
U.S. Average (Simple Avg.)	8.84%	3.0%	2.48%	14.32%

\* USF Percentage — 28.5% FCC “Hold Harmless” times FCC “contribution factor” of 8.7%.

**Table 2**  
**Average State-Local Tax Rates: Wireless vs. Sales and Use Tax**

Type of Tax	Simple Avg. 1/1/2003	Simple Avg. 4/1/2004	Weighted Avg. 1/1/2003	Weighted Avg. 4/1/2004
Tax Rates — Wireless Service	8.38%	8.84%	10.20%	10.74%
Tax Rates — General Sales and Use	5.99%	6.04%	6.87%	6.93%

*(Text continued from p. 182.)*

to the 3 percent federal excise tax on telecommunications and must also contribute to the federal universal service fund (USF). The weighted average of all taxes on wireless customers is 16.2 percent as compared with 6.93 percent for other goods and services. Other than telecommunications, only tires, cigarettes, gasoline, guns and ammunition, and some other hunting and fishing equipment are subject to federal consumption taxes.

### Why Are Wireless Tax Burdens So High?

There are four primary reasons why wireless and other telecommunications customers face excessive state and local taxes as compared with goods and services subject to the sales and use tax: (1) the federal excise tax and the federal USF; (2) state and local industry-specific taxes on telecommunications for general revenue purposes; (3) taxes and fees to support development and operation of the 911 system (in some states, funds are routinely diverted to non-911 uses); and (4) other special-purpose charges, such as regulatory fees, universal service fees, and deaf relay service fees.

The largest state and local impositions on wireless service are industry-specific telecommunications taxes for general fund purposes. Many of these taxes have been imposed for decades.<sup>8</sup> Some were originally imposed in exchange for monopoly franchise agreements for exclusive rights to provide telecommunications service in a specified state or locality. Since telephone rates were regulated at the time these taxes were first imposed, state public utility commissions typically permitted the companies to recover the taxes through the rate base without any impact on the company bottom line.

The breakup of the telephone monopoly and the subsequent federal deregulation of the telecommunications industry undermined the rationale for this system of taxation. Congress and the FCC permit companies selling interstate telecommunications service to include previously “hidden” taxes on customer bills. As telecommunications companies began to compete to sell more and more services, it became increasingly difficult for states to impose such taxes without customers being aware of them.

Today, in the majority of states, telecommunications customers face some type of state and local “industry-specific” tax on wireless and other telecommunications services. Examples at the state level include Florida, Illinois, and the District of Columbia. These states exempt telecommunications from the sales and use tax and impose a special excise tax on telecommunications. In the 2004 session, Maine exempted telecommunications service from the sales and use tax and included it in a new “services” tax.<sup>9</sup>

Other states impose the sales and use tax on telecommunications service, but also impose an additional gross receipts or excise tax on telecommunications. Examples include Indiana, New York, North Dakota, Pennsylvania, Rhode Island, South Dakota (wireless only), and Texas.

In addition, three of the four states that do not have a general sales tax at the state or local level impose a special tax on telecommunications. New Hampshire’s 7 percent communications services tax is the highest, followed by Delaware’s 4.25 percent gross receipts tax and Montana’s 3.75 percent telecommunications excise tax. Oregon does not impose a general-purpose tax on wireless service.

### *Some of the most onerous telecommunications taxes are local taxes authorized by state statute or imposed through local home rule authority.*

Local governments rely very heavily on taxes on telecommunications services because, historically, monopoly franchises were granted at the local level in many states. For this reason, some of the most onerous telecommunications taxes are local taxes authorized by state statute or imposed through local home rule authority. Examples of states with widespread local taxes on wireless service include California, Florida, Illinois, Kentucky, Maryland, Missouri, New York, Utah, Virginia, and Washington. In California, for example, the city of Los Angeles imposes a 10 percent general-purpose tax on telecommunications service. The city of Clayton, Mo., imposes an 8 percent business license tax for the “privilege” of providing wireless service to a customer located in the city — a tax imposed in addition to state and local sales taxes on wireless service.

### Recent State and Local Tax Increases

As shown previously in Table 2, taxes on wireless services increased nine times faster than taxes on goods and services taxable under the sales and use tax. Between January 2003 and April 2004, the weighted average effective tax rate imposed on wireless customers increased from 10.2 percent to 10.74 percent. During that same time period, the average effective general sales and use tax rate increased from 6.87 percent to 6.93 percent.

Instead of addressing the excessive tax burden on wireless service, states and localities have increased the level of taxes on wireless service. The increase in the average state-local tax on wireless service was due primarily to new taxes on wireless service imposed in Pennsylvania and South Dakota. Also contributing to the increase in the wireless customer tax burden

<sup>8</sup> Paladino, *supra* note 1.

<sup>9</sup> Maine LB 1420 of 2004 (budget bill).

Table 3 State-Local Effective Tax Rates on Wireless Customers in the Five Top Population States	
	State-Local Tax Rate
California	13.36%
Texas	14.19%
New York	16.23%
Florida	16.12%
Illinois	15.57%
U.S. Weighted Avg.	10.74%

were general sales and use tax rate increases in Arkansas, New York, and Ohio and an increase in the sales tax rate on telecommunications service in Vermont. Additionally, a handful of states either increased the 911 fees or began imposing 911 fees on wireless service.

The largest new tax imposition on wireless customers was in Pennsylvania, which imposed a new 5 percent gross receipts tax on wireless and interstate long-distance services. The Pennsylvania General Assembly and the governor did exactly the opposite of what the NCSL and NGA reports recommended. Instead of eliminating the monopoly-era gross receipts tax on intrastate service, they expanded that tax to wireless and interstate long distance in order to “level the playing field.” As a result of this action, plus the imposition of a new statewide \$1-per-month 911 tax on wireless service, Pennsylvania wireless customers have seen their taxes more than double — from 6.5 percent to almost 14 percent — between December 31, 2003, and April 1, 2004.

South Dakota imposed a 4 percent gross receipts tax on the wireless industry in 2003. Proceeds from the tax were used, in part, to provide aid to county governments. Wireless customers in South Dakota now pay about 12 percent in state and local transaction taxes.

An emerging issue for wireless customers is the threat of proliferation of local taxes in several states. In 2003 the Maryland General Assembly granted Prince George’s County the authority to impose a new 8 percent local tax on wireless service to fund schools. Also in 2003, Montgomery County imposed a new \$2 monthly tax on wireless service. This year, Anne Arundel County and Baltimore City have attempted to impose taxes on wireless service without legislative approval. Cities in California and Missouri are also attempting to impose taxes and fees on wireless service.

The city of Springfield, Ore., announced in April 2004 that it will try to impose a 5 percent tax on wireless and interstate telecommunications service by local ordinance, even though state statutes specifically authorize taxes only on “utilities” actually using the public right-of-way. If the city is successful in this effort, this could open the floodgates for new local tax impositions on wireless and other telecommunications service.<sup>10</sup>

The potential proliferation of new local taxes on wireless service in several states raises the dual specter of massive new

<sup>10</sup> City of Springfield, Ore., proposed ordinance (unnumbered). See “Opportunity to Comment: Springfield Utility Tax,” Apr. 15, 2004. Available at: <http://www.ci.springfield.or.us>.

administrative and compliance burdens being imposed on the wireless industry, as well as significant new taxes on customers that add to the cost of their wireless service. Once again, the wireless industry is confronted with the potentially damaging impact of excessive taxes. These taxes reduce demand for wireless service and hamper the industry’s ability to generate the revenue necessary to invest in improving wireless networks. The economic development impacts of this potential proliferation of punitive local taxes on wireless customers needs to be examined by legislatures in those states where local governments are aggressively seeking to impose new tax burdens on wireless customers.

### Recent State ‘Reforms’

Since 1999, to the extent that states have reformed their telecommunications taxes at all, they have focused on reducing the administrative burden of compliance. Florida reformed its tax system in the 2000 and 2001 legislative sessions by centralizing the collection of all state and local taxes with the Department of Revenue, and by replacing a handful of local taxes with a single local tax.<sup>11</sup> The price of this reform, however, was “revenue neutrality” that set rates at very high levels. Wireless customers in Florida face the second-highest state and local tax burden in the country, just over 16 percent of their bills. Examples include Tallahassee, which levies a 6.02 percent tax on top of the state’s 9.17 percent tax and a 50 cent monthly 911 fee — a total effective tax rate of 16.2 percent.<sup>12</sup> By contrast, the combined state and local sales tax rate is 7 percent in Tallahassee.

Illinois enacted a similar reform in 2002, reducing administrative burdens on companies by centralizing the filing of returns with the state but locking in very high rates of taxation.<sup>13</sup> While the reforms significantly reduced the cost of complying with local taxes, Illinois currently has the fourth-highest wireless tax burden on customers, averaging just over 15.5 percent.

One state that adopted a reform that could serve as a national model is Ohio. In 2003 the General Assembly approved legislation that brought taxation of all telecommunications services under the state sales and use tax and repealed sales and use tax exemptions for certain types of telecommunications services.<sup>14</sup> Prior to the reform, providers of local telephone service were subject to a gross receipts tax while wireless and other services were subject to the sales and use tax. The reform brought all services under the sales tax and taxed all telecommunications providers under the corporation income tax on income earned in Ohio. As a result, telecommunications services are taxed at the same rate and in the same manner as other taxable services.

### Industry Responses to Excessive Taxation

The telecommunications industry began to focus in earnest on the impact of excessive taxation on the industry and its customers in the late 1990s. In 1999 representatives of the telecommunications industry testified before the federal Ad-

<sup>11</sup> “Communications Services Tax Simplification Law.” Florida Statutes, Chapter 202.

<sup>12</sup> A full listing of local CST tax rates is available at the Florida Department of Revenue Web site: [http://sun6.dms.state.fl.us/dor/com\\_rates/CST\\_Rate-Tables0604.xls](http://sun6.dms.state.fl.us/dor/com_rates/CST_Rate-Tables0604.xls).

<sup>13</sup> “Simplified Municipal Telecommunications Tax Act.” Illinois Compiled Statutes, 35 ILCS 636.

<sup>14</sup> Ohio HB 95, signed June 26, 2003. See sections 183 and 186.

visory Commission on Electronic Commerce (ACEC) about the burden of telecommunications taxes on the industry and its customers.<sup>15</sup> The ACEC was tasked with recommending what actions, if any, Congress should take to promote the development of the electronic commerce marketplace in the United States. Since the telecommunications backbone is a vital component of the Internet, the ACEC was directed to examine federal, state, and local taxation of telecommunications companies and services.

The ACEC testimony focused on two issues: (1) the excessive level of taxation of the telecommunications industry and its customers; and (2) the excessive administrative burden faced by the industry in complying with the numerous state and local taxes on telecommunications services.

Telecommunications industry representatives asked the commission to recommend to Congress that state and local governments be encouraged to simplify the administrative burden on telecommunications companies. One ACEC commissioner, California State Board of Equalization member Dean Andal (R), submitted a proposal that went much further. He proposed that the commission recommend to Congress the passage of legislation similar to the so-called federal 4-R Act (Railroad Revitalization and Regulatory Reform Act) to outlaw discriminatory state and local taxation of the telecommunications industry.<sup>16</sup>

However, the telecommunications industry decided not to endorse that approach. At that time, it appeared that leading state organizations, such as the NCSL and the NGA, were committed to working at the state level to address excessive taxes on telecommunications. It remains to be seen whether the failure of the states to address the excessive tax burden on telecommunications service over the last five years will cause the industry to rethink its policy and seek congressional action.

### Looking Ahead: Excessive Telecommunications Tax Problems Will Grow Without Meaningful Reform

The recent debate over extension of the Internet Tax Non-Discrimination Act brought attention to several critical issues that will face both the states and the telecommunications industry in the coming years. Most of these issues are caused by the excessive tax burdens imposed on telecommunications services by state and local governments.

From the perspective of state and local governments, revenues from excessive telecommunications taxes are an important source of revenue. State and local concerns that revenues from taxation of telecommunications services would be eroded under federal legislation to extend the moratorium on state and local taxes on Internet access led to a furious lobbying effort by state and local organizations (with the notable exception of the NCSL) to defeat the legislation. The Multistate Tax Commission even published a report claiming

that one version of the legislation would cause state and local governments to lose over \$20 billion in revenues — essentially every penny of taxes collected from telecommunications companies and their customers.<sup>17</sup> The telecommunications industry was able to convince the overwhelming majority of senators that these claims were exaggerated, and the Senate ultimately passed S.150 by a 93-3 vote.<sup>18</sup> However, the vehemence with which state and local governments fought S.150 illustrated the importance attached to preserving excessive telecommunications taxation.

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### *The disparity in taxation between telecommunications services and other goods and services subject to state and local sales tax is not sustainable.*

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From the perspective of the telecommunications industry, the disparity in taxation between telecommunications services and other goods and services subject to state and local sales tax is not sustainable. The convergence of communications technologies is likely to render industry-specific taxes obsolete, difficult to enforce, economically inefficient, and competitively nonneutral. Many of these problems would be minimized or eliminated if states:

- eliminated excessive state and local taxes on telecommunications services and taxed those services under the general sales and use tax; and
- adopted the simplifications contemplated in the Streamlined Sales and Use Tax Agreement.

For example, the wireless industry is currently offering customers a host of products and services that are delivered to the customer by or through the customer's wireless telephone or computer equipped with a wireless modem. If the experiences of Europe and Asia are any guide, the type and scope of these services will expand rapidly in the next few years. These services include, by way of example only, traditional voice transmissions; data transmissions, such as text messaging, handheld Web-browsing capability, and computer-based wireless Internet access; such downloaded products as ring tones, music, wallpaper, and videos; photography; downloaded games; the ability to purchase tangible products from vending machines; the ability to pay highway tolls; and on and on.

Many of these products and services are not traditional telecommunication services, even though transmission is used to deliver the product or service to the customer. For example, ring tones and music downloads are digital products that are downloaded from a wireless company's server for a fixed fee. The same goes with electronic games and digital images like "wallpaper" for a customer's wireless phone. They are no

<sup>15</sup> Landry, Keith G. and Stacey L. Sprinkle, "Proposal for State and Local Taxation of the Telecommunications Industry." Presented to the Advisory Commission on Electronic Commerce, November 15, 1999 (on behalf of Air Touch, ALLTEL, AT&T, Bell Atlantic, BellSouth, CommNet Cellular, Global Crossing, GTE, SBC, Sprint, US West, and Western Wireless). Available at: <http://www.ecommercecommission.org/document/StateAndLocalTaxation124.doc>.

<sup>16</sup> Andal, Dean, "A Prohibition on Discriminatory Ad Valorem Taxation of Interstate Telecommunications: Encouraging Investment in Internet Infrastructure Through Equitable State Tax Treatment." Advisory Commission on Electronic Commerce, DATE. Available at: <http://www.ecommercecommission.org/document/104andalproposal.doc>.

<sup>17</sup> Bucks, Dan; Elliott Dubin, and Ken Beier, "Revenue Impact on State and Local Governments of Permanent Extension of the Internet Tax Freedom Act." Washington: Multistate Tax Commission, Sept. 24, 2003. (This report was published in *State Tax Notes*, Oct. 6, 2003, p. 75; at *2003 STT 193-9*; and at *Doc 2003-21777*.)

<sup>18</sup> Cline, Robert. "Critique of Multistate Tax Commission's State and Local Revenue Impact Estimates of H.R. 49." Washington: Ernst & Young LLP, Oct. 1, 2003. (This report was published in *State Tax Notes*, Oct. 27, 2003, p. 317; at *2003 STT 207-4*; and at *Doc 2003-22800*.)

different than digital products that are downloaded by a customer using a “wired” Internet connection.

Two possible problems arise for the wireless industry. First, states may try to assert that any product or service downloaded through wireless transmissions is “ancillary to” or “associated with” telecommunications service and subject to telecommunications taxes. Second, companies that sell taxable voice or data transmissions as part of a package that includes nontaxable digital products could face state bundling rules that seek to make the entire transaction taxable.

Under either of these scenarios, customers that purchase a digital product from a wireless company could face a double-digit tax burden. That same customer purchasing an identical product from an Internet Service Provider or other Internet-based seller would pay only the sales and use tax — if the state taxes digital products.

The resulting disparity would be exacerbated in the situation in which the Internet-based seller lacked nexus in the purchaser’s state. In that case, many customers would end up paying no tax at all if they purchase from an Internet-based seller while paying double-digit rates if purchasing from a wireless company because wireless companies have nexus in every state. This type of disparity is not sustainable in the marketplace.

It is beyond the scope of this article to discuss the emerging debate over the taxation of Voice Over Internet Protocol (VOIP). Needless to say, however, the taxation of VOIP raises some of these same issues and some additional issues as well.<sup>19</sup> All of these problems originate from the same source, however — the continued use of excessive taxes on telecommunications services by state and local governments.

### Can States and Localities Reduce Reliance On Excessive Telecommunications Taxes?

As mentioned earlier, many state and local policymakers acknowledge that the antiquated and burdensome taxes on telecommunications need to be reformed. However, policymakers were constrained by the difficult fiscal situation facing the states after the dot.com bubble burst in 1999. State revenues — particularly state income tax revenues — plunged dramatically and are just now, five years later, returning to the levels enjoyed in the late-1990s.

State policymakers are not out to deliberately damage the telecommunications industry. In fact, many state economic development experts inside and outside state and local governments recognize the importance of broadband deployment in rural and underserved areas. Many lawmakers want to help alleviate the burden of taxation on telecommunications companies and their customers because they recognize that lower taxes will spur additional demand for services, which will in turn provide companies with more money to invest in high-speed telecommunications networks.

However, some state and local governments have become dependent on revenues from the telecommunications industry and their customers. This is especially true of local governments. Any solution that will lead to the elimination of exces-

sive telecommunications taxes will require recognition of this revenue impact. In fact, the NCSL policy recommending the elimination of industry-specific taxes specifically recognizes the need to “mitigate the impact on local governments.”<sup>20</sup>

The recent upturn in state revenues provides a timely opportunity to begin a phaseout of excessive telecommunications taxes. In April 2004 the NCSL, the National Association of State Budget Officers, and the Center for the Study of the States all reported that state tax revenues are finally rebounding from the downturn of the early 2000s.<sup>21</sup> This recovery of state revenues, combined with strong property tax revenue collections due to strength in the housing sector, provides additional revenue flexibility for a phaseout of excessive telecommunications taxes. Such a phaseout during times of strength in personal income, sales, and corporation income tax revenues would allow states to mitigate state and local revenue losses during a transition period when excessive taxes are phased out.

State and local government successes with the Streamlined Sales Tax Project (SSTP) may also provide another unique opportunity for states to transition away from excessive telecommunications taxes. The SSTP is a multistate effort to simplify the administration of sales and use taxes, with a goal of minimizing burdens for sellers that operate in multiple states. The SSTP is currently working to establish a system that would provide incentives for multistate sellers that are not currently collecting sales and use taxes to do so voluntarily. In addition, state policymakers are using the SSTP as the basis for a renewed effort to convince the Congress to overturn the *Quill* “physical presence” standard through federal legislation.

If the states are successful, significant new revenues would be available to states and localities with local-option sales taxes that could allow them to eliminate excessive telecommunications taxes. In addition, by resolving nexus questions for Internet-based sellers, telecommunications companies that have nexus everywhere would be on a level playing field with Internet-based companies that sell digital products and services to customers.

In addition, the SSTP simplification provisions could substantially simplify the administrative burden of collecting state and local telecommunications taxes. The SSTP framework calls for the elimination of local tax return filing, local tax administration, and local audits. These functions would be handled by the states on behalf of their localities. Central filing and payment of local taxes to state government will significantly reduce the cost of complying with telecommunications taxes while ensuring that local revenues are collected and remitted to local jurisdictions. There is some concern, however, that

<sup>20</sup> National Conference of State Legislatures, *supra* note 2.

<sup>21</sup> See National Conference of State Legislatures, “State Budget Update: April 2004.” Available at: <http://www.ncsl.org/programs/press/2004/040428.htm>. Also, National Governors’ Association and National Association of State Budget Officers, “Fiscal Survey of the States: April 2004.” Available at: <http://www.nga.org/cda/files/FSS0404.pdf>. Also, Nicholas Jenny, “State Revenue Growth Gains Momentum.” Albany, N.Y.: Center for the Study of the States, May 2004. Available at: [http://stateandlocalgateway.rockinst.org/fiscal\\_pub/state\\_news/sn\\_reports/SFN%204-3.pdf](http://stateandlocalgateway.rockinst.org/fiscal_pub/state_news/sn_reports/SFN%204-3.pdf). (A report by Jenny on the state revenue recovery appeared in *State Tax Notes*, July 12, 2004, p. 103; at 2004 STT 133-1; and at Doc 2004-13385.)

<sup>19</sup> For a discussion of these issues, see Deborah Bierbaum (director, external tax policy, AT&T), “Taxing New Technologies: VOIP a Challenge to State and Local Tax Systems.” Presentation to NCSL Spring Forum, April 29, 2004.

states may be inclined to exclude some telecommunications taxes from the SSTP simplification provisions.

### **Conclusion**

State and local governments have made very little progress in reforming excessive telecommunications taxes over the last five years. However, the convergence of new communications technologies, including VOIP, will put additional pressure on states and local governments to confront the unfairness inherent in current telecommunications tax policies.

Eliminating excessive tax burdens on wireless and other telecommunications services, and taxing those services under general sales and use tax provisions, would eliminate many of the most vexing problems in the state and local tax arena today. It would also have the added benefit of creating a tax policy that is aligned with state economic development objectives of providing incentives for investment in, and deployment of, broadband telecommunications networks. Just as the Internet-generated productivity gains that were widely credited with

boosting economic growth in the 1990s, tax policies that promote broadband deployment would have important economic benefits for state and local economies, especially in rural and underserved areas.

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***Tax policies that promote broadband deployment would have important economic benefits for state and local economies, especially in rural and underserved areas.***

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The current recovery in state revenues, combined with the possible success of the SSTP, provides a unique opportunity for state legislatures and governors to tackle telecommunications tax reform in the next legislative biennium.

<b>Appendix A</b> <b>State and Local Transaction Taxes on Wireless Service</b> <b>April 1, 2004</b>			
<b>State</b>	<b>Type of Tax</b>	<b>Rate</b>	<b>Notes</b>
<b>Alabama</b>			
##	AL cell service tax	6.00%	Access, interstate and intrastate
	E911	1.45%	70 cents per month
	<b>Total Transaction Tax</b>	<b>7.45%</b>	
<b>Alaska</b>			
##	Local sales tax	2.50%	Avg. of Juneau and Anchorage
	Local E911	1.55%	up to 75 cents per month
	<b>Total Transaction Tax</b>	<b>4.05%</b>	
<b>Arizona</b>			
##	State sales (transaction priv.)	5.60%	Intrastate telecommunications service
	Local sales (transaction priv.)	4.70%	Avg. of Phoenix and Tucson
	911	0.76%	37 cents per month
	<b>Total Transaction Tax</b>	<b>11.06%</b>	
<b>Arkansas</b>			
##	State sales tax	6.00%	Increased from 5.125% to 6% effective 3/1/2004
	Local sales taxes	2.38%	Avg. of Little Rock (1.5%) and Fayetteville (3.25%)
	State USF	0.80%	Intrastate
	Wireless 911	1.03%	50 cents per month statewide; local 911 — up to 30 cents per month effective September 1, 2003
	<b>Total Transaction Tax</b>	<b>10.21%</b>	
<b>California</b>			
##	Local utility user tax	8.75%	Avg. of L.A. (10%) and Sacramento (7.5%)
	911	0.72%	intrastate
	PUC fee	0.11%	intrastate
	ULTS	1.10%	intrastate
	Deaf/CRS	0.30%	intrastate
	CHCF — A & B	2.20%	intrastate
	CTF	0.00%	intrastate
	<b>Total Transaction Tax</b>	<b>13.18%</b>	
<b>Colorado</b>			
##	State sales tax	2.90%	Access and intrastate
	Local sales taxes	2.65%	COST — avg. of Denver and Colorado Springs
	Local sales — RTD, CD, BS	0.80%	Denver and surrounding counties only
	911	1.02%	Up to 70 cents per month plus overrides
	USF	2.00%	Set annually based on fund status — reduced January 1, 2003, from 2.3%
	<b>Total Transaction Tax</b>	<b>9.37%</b>	
<b>Connecticut</b>			
##	State sales tax	6.00%	Access, interstate, and intrastate
	911	0.41%	20 cents per month
	<b>Total Transaction Tax</b>	<b>6.41%</b>	
<b>Delaware</b>			
##	Public utility gross receipts tax	4.25%	Access and intrastate
	Local 911 tax	1.24%	60 cents per month
	<b>Total Transaction Tax</b>	<b>5.49%</b>	
<b>District of Columbia</b>			
##	Telecommunication privilege tax	11.00%	11% effective January 1, 2003 — access, interstate, and intrastate
	911	1.57%	76 cents per month
	<b>Total Transaction Tax</b>	<b>12.57%</b>	

(Appendix A continued on next page.)

(Appendix A continued)			
State	Type of Tax	Rate	Notes
<b>Florida</b>			
##	State communications services	9.17%	Access, interstate, and intrastate
	Local communications services	5.92%	Jacksonville 5.82%; Tallahassee 6.02%
	911	1.03%	Up to 50 cents per month statewide
	<b>Total Transaction Tax</b>	<b>16.12%</b>	
<b>Georgia</b>			
##	State sales tax	2.89%	4% of "access charge" — assume \$35
	Local sales tax	2.17%	Avg. rate of Fulton and Richmond counties (3%)
	Local 911	2.58%	Atlanta — \$1/line; Augusta — \$1.50/line
	<b>Total Transaction Tax</b>	<b>7.64%</b>	
<b>Hawaii</b>			
##	Public service co. tax	5.89%	5.885% intrastate and access; 1.88% interstate
	PUC fee	0.25%	0.25% of intrastate
	<b>Total Transaction Tax</b>	<b>6.14%</b>	
<b>Idaho</b>			
##	Telephone service asst. program	0.17%	Set annually by PUC — currently 8 cents per month
	Statewide wireless 911	2.07%	Local — up to \$1 per month effective July 1, 2003. Boise rate
	<b>Total Transaction Tax</b>	<b>2.23%</b>	
<b>Illinois</b>			
##	State telecom excise tax	7.00%	Access, interstate, and intrastate
	Simplified municipal tax	6.50%	Avg. of Chicago and Springfield
	Wireless 911	2.07%	Chicago \$1.25 per month; others 75 cents per month
	<b>Total Transaction Tax</b>	<b>15.57%</b>	
<b>Indiana</b>			
##	State sales tax	6.00%	Access and intrastate
	Utility receipts tax	1.40%	Same base as sales tax
	Wireless 911	2.07%	Up to \$1 set annually by board
	PUC fee	0.15%	
	<b>Total Transaction Tax</b>	<b>9.62%</b>	
<b>Iowa</b>			
##	State sales tax	5.00%	Access and intrastate
	Local option sales taxes	0.50%	Avg. of Cedar Rapids and Des Moines
	Wireless 911	1.03%	Up to 50 cents per number
	<b>Total Transaction Tax</b>	<b>6.53%</b>	
<b>Kansas</b>			
##	State sales tax	5.30%	Intrastate and interstate
	Local option sales taxes	1.45%	Avg. of Wichita and Topeka
	USF	3.57%	4.99% of revenues x 71.5% FCC intrastate safe harbor
	911 fee		Effective July 1, 2004; 25 cents per state and 25 cents per county
	<b>Total Transaction Tax</b>	<b>10.32%</b>	
<b>Kentucky</b>			
##	State sales tax	6.00%	Access, interstate, and intrastate
	School utility gross receipts	1.50%	Avg. of Frankfort (3%) and Louisville (0%)
	Lifeline support charge	1.03%	50 cents per month Frankfort and Louisville
	Wireless 911	1.45%	70 cents per month
	<b>Total Transaction Tax</b>	<b>9.98%</b>	
<b>Louisiana</b>			
##	State sales tax	3.00%	Access, interstate, and intrastate
	Wireless 911	1.39%	New Orleans 85 cents per month; Baton Rouge 50 cents per month
	<b>Total Transaction Tax</b>	<b>4.39%</b>	

(Appendix A continued)			
State	Type of Tax	Rate	Notes
<b>Maine</b>			
##	State sales tax	5.00%	Intrastate
	911 tax	1.03%	50 cents per month effective July 1, 2003
	USF	0.50%	
	<b>Total Transaction Tax</b>	<b>6.53%</b>	
<b>Maryland</b>			
##	State sales tax	5.00%	“Mobile telecommunications service”
	Local telecom excise	0.00%	8% in PG county; 0% in Baltimore and Annapolis
	State 911	0.52%	25 cents per month effective Oct. 1, 2003
	County 911	1.55%	Up to maximum of 75 cents per month effective Oct. 1, 2003
	<b>Total Transaction Tax</b>	<b>7.07%</b>	
<b>Massachusetts</b>			
##	State sales tax	5.00%	Interstate and intrastate
	Wireless 911	0.62%	30 cents per month
	<b>Total Transaction Tax</b>	<b>5.62%</b>	
<b>Michigan</b>			
##	State sales tax	6.00%	Interstate and intrastate
	Wireless 911	1.07%	52 cents per month
	<b>Total Transaction Tax</b>	<b>7.07%</b>	
<b>Minnesota</b>			
##	State sales tax	6.50%	Interstate and intrastate
	Local sales tax	0.50%	Up to 1.0% — COST avg. of Minneapolis and St. Paul
	911	0.83%	Max. 40 cents per month effective July 1, 2003
	Telecom access MN fund	0.28%	Up to 20 cents per month set by PUC — currently 13 cents per month
	<b>Total Transaction Tax</b>	<b>8.10%</b>	
<b>Mississippi</b>			
##	State sales tax	7.00%	Access, interstate, and intrastate
	Wireless 911	2.07%	\$1.00 per month per line
	<b>Total Transaction Tax</b>	<b>9.07%</b>	
<b>Missouri</b>			
##	State sales tax	4.23%	Access and intrastate
	Local sales taxes	2.65%	COST method — avg. of Jefferson City and St. Louis
	Local license tax	4.25%	Jefferson City (8.5%) and Clayton (8%) only cities to impose
	<b>Total Transaction Tax</b>	<b>11.12%</b>	
<b>Montana</b>			
##	Telecom excise tax	3.75%	Access, interstate, and intrastate
	911 & E911 tax	1.03%	50 cents per number per month
	TDD tax	0.21%	10 cents per number per month
	<b>Total Transaction Tax</b>	<b>4.99%</b>	
<b>Nebraska</b>			
##	State sales tax	5.50%	Access and intrastate
	Local sales tax	1.50%	Up to 1.5%
	State USF tax	6.95%	Intrastate service revenue
	Wireless 911	1.03%	50 cents per month
	TRS	0.14%	7 cents per month effective January 1, 2003
	<b>Total Transaction Tax</b>	<b>15.13%</b>	
<b>Nevada</b>			
##	Local franchise/gross receipts	0.62%	2% of first \$15 of intrastate revenues
	Local 911 tax	0.52%	Up to 25 cents per month — imposed by counties

(Appendix A continued on next page.)

(Appendix A continued)			
State	Type of Tax	Rate	Notes
<b>Nevada</b> (continued)	State deaf relay charge	0.17%	8 cents per month — effective July 1, 2003
	<b>Total Transaction Tax</b>	<b>1.14%</b>	
<b>New Hampshire</b>			
##	Communication services tax	7.00%	Access, interstate, and intrastate
	911 tax	0.87%	42 cents per month per CMRS number
	<b>Total Transaction Tax</b>	<b>7.87%</b>	
<b>New Jersey</b>			
##	State sales tax	6.00%	Access, interstate, and intrastate
	<b>Total Transaction Tax</b>	<b>6.00%</b>	
<b>New Mexico</b>			
##	State gross receipts (sales) tax	5.00%	5% intrastate; 4.25% interstate
	Local gross receipts taxes	1.25%	Avg. of Santa Fe and Albuquerque
	Wireless 911	1.05%	51 cents per month per subscriber
	TRS surcharge	0.33%	Intrastate
	<b>Total Transaction Tax</b>	<b>7.63%</b>	
<b>New York</b>			
##	State sales tax	4.25%	Intrastate and monthly access
	Local sales taxes	4.00%	COST method — avg. of NYC and Albany
	MCTD sales tax	0.13%	NYC 0.25%; Albany 0% (COST)
	State excise tax (186e)	2.50%	Mobile telecom service — includes interstate
	MCTD excise/surcharge (186e)	0.30%	NYC and surrounding counties — 0.6%; Albany 0%
	Local utility gross receipts tax	1.51%	NYC — 86% of 2.36%; Albany 1%
	State wireless 911	2.48%	\$1.20 per month
	Local wireless 911	0.62%	30 cents per month — NYC and selected cities
	MCTD surcharge (184)	0.07%	NYC 0.13%; Albany 0%
	NY franchise tax (184)	0.38%	
	School district utility tax	0.00%	Up to 3% — no tax in NYC and Albany
	<b>Total Transaction Tax</b>	<b>16.23%</b>	
<b>North Carolina</b>			
##	State sales tax	6.00%	Access, interstate, and intrastate
	Wireless 911	1.65%	80 cents per month
	<b>Total Transaction Tax</b>	<b>7.65%</b>	
<b>North Dakota</b>			
##	State sales tax	5.00%	Access and intrastate
	Local sales taxes	1.25%	Avg. Fargo and Bismarck; includes Cass County
	State gross receipts tax	2.50%	Interstate and intrastate
	Local 911 tax	2.07%	Up to \$1 per month
	TRS	0.12%	Up to 11 cents per month — currently 6 cents per month
	<b>Total Transaction Tax</b>	<b>10.94%</b>	
<b>Ohio</b>			
##	State sales tax	6.00%	Access, interstate, and intrastate
	Local sales taxes	1.63%	County and transit taxes — avg. of Columbus and Cleveland
	<b>Total Transaction Tax</b>	<b>7.63%</b>	
<b>Oklahoma</b>			
##	State sales tax	4.50%	Access, interstate, and intrastate
	Local sales taxes	3.65%	Avg. of Oklahoma City and Tulsa
	911 tax	1.03%	50 cents per line
	USF	0.40%	Intrastate
	<b>Total Transaction Tax</b>	<b>9.58%</b>	

(Appendix A continued)			
State	Type of Tax	Rate	Notes
<b>Oregon</b>			
##	911 tax	1.55%	75 cents per month
	TDD/low income subsidy	0.72%	Up to 35 cents per month — currently 13 cents per month
	<b>Total Transaction Tax</b>	<b>2.27%</b>	
<b>Pennsylvania</b>			
##	State sales tax	6.00%	Access, interstate, and intrastate
	State gross receipts tax	5.00%	Access, interstate, and intrastate
	Local sales tax	0.50%	Philadelphia and Pittsburgh 1%; other locals 0%
	Statewide wireless 911	2.07%	\$1 per month — effective April 4, 2004
	<b>Total Transaction Tax</b>	<b>13.57%</b>	
<b>Rhode Island</b>			
##	State sales tax	7.00%	Access, interstate, and intrastate
	Gross receipts tax	5.00%	Access, interstate, and intrastate
	Wireless 911	2.07%	\$1 per month
	<b>Total Transaction Tax</b>	<b>14.07%</b>	
<b>South Carolina</b>			
##	State sales tax	5.00%	Access, interstate and intrastate
	Local sales tax	0.00%	Up to 2% — no tax in Greenville and Rockland County
	Municipal license tax	0.30%	0.3% of monthly recurring charge (max. 0.75% on January 1, 2004)
	911 tax	1.20%	58 cents per month
	<b>Total Transaction Tax</b>	<b>6.50%</b>	
<b>South Dakota</b>			
##	State sales tax	4.00%	Access, interstate, and intrastate
	State gross receipts tax	4.00%	Wireless only, effective July 1, 2003
	Local option sales tax	2.00%	Up to 2% — COST methodology
	911 excise	1.55%	Up to 75 cents per month
	TRS fee	0.31%	15 cents per month
	PUC fee	0.15%	Intrastate receipts
	<b>Total Transaction Tax</b>	<b>12.01%</b>	
<b>Tennessee</b>			
##	State sales tax	7.00%	Access, interstate, and intrastate
	Local sales tax	2.50%	Shelby and Davidson counties
	911 tax	2.07%	Up to \$2 statewide — \$1 currently imposed
	<b>Total Transaction Tax</b>	<b>11.57%</b>	
<b>Texas</b>			
##	State sales tax	6.25%	Access, interstate, and intrastate
	Local sales tax	2.00%	Avg. of Austin and Houston
	Telecom infrastructure fund	1.25%	Statewide on sales tax base
	Wireless 911 tax	1.03%	50 cents per month
	Texas USF	3.60%	Statewide on sales tax base
	Equalization surcharge	0.06%	Intrastate long distance
	<b>Total Transaction Tax</b>	<b>14.19%</b>	
<b>Utah</b>			
##	State sales tax	4.75%	Access and intrastate
	Local sales taxes	1.85%	SLC rates used
	Local utility wireless	2.07%	Up to \$1 per month — SLC rate used
	911 tax	1.10%	53 cents per month
	Poison control	0.14%	7 cents per month
	State USF	0.34%	Intrastate revenues
	<b>Total Transaction Tax</b>	<b>10.25%</b>	

(Appendix A continued on next page.)

(Appendix A continued)			
State	Type of Tax	Rate	Notes
<b>Vermont</b>			
##	State sales tax	6.00%	Access, interstate, and intrastate
	State USF	1.27%	Same
	<b>Total Transaction Tax</b>	<b>7.27%</b>	
<b>Virginia</b>			
##	Local utility users tax	6.20%	Avg. of Richmond (\$3 per month) and Virginia Beach (\$3 per month)
	Wireless 911	1.55%	75 cents per month
	<b>Total Transaction Tax</b>	<b>7.75%</b>	
<b>Washington</b>			
##	State sales tax	6.50%	Access, interstate, and intrastate
	Local sales tax	1.90%	Avg. of Olympia and Seattle
	B&O/Utility Franchise — local	6.19%	Olympia and Seattle avg.
	911 — county excise	0.41%	20 cents per month effective January 1, 2003
	911 — state	1.03%	50 cents per month effective January 1, 2003
	<b>Total Transaction Tax</b>	<b>16.04%</b>	
<b>West Virginia</b>			
##	Wireless 911	1.94%	94 cents per month
	<b>Total Transaction Tax</b>	<b>1.94%</b>	
<b>Wisconsin</b>			
##	State sales tax	5.00%	Access, intrastate, and interstate
	Local sales tax	0.55%	Avg. of Milwaukee and Madison
	<b>Total Transaction Tax</b>	<b>5.55%</b>	
<b>Wyoming</b>			
##	State sales tax	4.00%	Access and intrastate
	Local sales tax	1.00%	Avg. of Cheyenne and Laramie
	TRS	0.12%	Up to 25 cents per month — 6 cents per month currently
	USF	4.00%	Access and intrastate
	911 tax	1.55%	75 cents per month statewide effective July 1, 2003
	<b>Total Transaction Tax</b>	<b>10.67%</b>	
ARPU=\$48.40			
Source: Committee On State Taxation, "50-State Study and Report on Telecommunications Taxation," Nov. 29, 2000. Updated 2004 by Scott Mackey and Kimbell Sherman Ellis using state statutes.			





NATIONAL CONFERENCE *of* STATE LEGISLATURES

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## **TELECOMMUNICATIONS TAX REFORM**

### **EXECUTIVE COMMITTEE TASK FORCE ON STATE AND LOCAL TAXATION OF TELECOMMUNICATIONS AND ELECTRONIC COMMERCE**

**WHEREAS**, the elimination of boundaries, new technologies and increased convergence and competition in telecommunications makes it critical to simplify and reform state and local taxes to ensure a level playing field, to enhance economic development, and to avoid discrimination; and

**WHEREAS**, until 1984, telephone service was a highly regulated service generally subject to tax under statutes applicable to "public utilities"; and

**WHEREAS**, such taxes in the form of gross receipts, franchise and other industry-specific taxes were passed on to consumers as part of the regulatory rate setting process; and

**WHEREAS**, convergence and technology have radically expanded telecommunications, blurring distinctions between telephone and Internet service in some instances; between cable, wireless, satellite, and wireline; between long distance and local service and between telephone and other forms of communications and information services;

**WHEREAS**, in most states, the deregulation of the industry was not accompanied by corresponding elimination, simplification, or restructuring of taxes that have historically been levied on regulated companies; and

**WHEREAS**, the combination of state and local taxes and fees imposes significant administrative costs on telecommunications companies, most of which operate in multiple states and localities; and

**WHEREAS**, this administrative burden forces such companies to incur substantial expenditures to satisfy compliance and systems requirements, resulting in higher costs of service for consumers without any corresponding benefit to state or local governments; and

**WHEREAS**, state and local tax burdens on telecommunications companies and their customers are significantly above those imposed on most other types of industries and services; and

**WHEREAS**, imposing these higher tax burdens on telecommunications services provided by “telecommunications providers” while imposing lower and even no tax burdens on similar services sold by non-traditional providers places governments in the position of picking winners and losers in the marketplace; and

**WHEREAS**, enhanced access to advanced telecommunications provides important economic, safety, and social benefits to citizens and businesses in the new, global economy; and

**WHEREAS**, high administrative costs and tax burdens imposed on the telecommunications industry create an impediment to entry for new service providers, disincentives to deploy infrastructure and increase the cost to consumers of access to advanced telecommunications services.

**NOW, THEREFORE BE IT RESOLVED THAT**, the National Conference of State Legislatures encourages states to work together with local governments and providers in their efforts to simplify and modernize state and local taxes on telecommunications based upon the following principles:

- 1) **Tax Efficiency:** State and local taxes and fees imposed on telecommunications services should be substantially simplified and modernized to minimize confusion and ease the burden of administration on taxpayers and governments.
- 2) **Competitive Neutrality:** State and local transaction taxes and fees imposed on telecommunications services should be applied uniformly and in a competitively neutral manner upon all providers of telecommunications and similar services, without regard to the historic classification or regulatory treatment of the entity.
- 3) **Tax Equity:** Under a uniform, competitively neutral system, industry-specific telecommunications taxes are no longer justified.
- 4) **Tax Fairness:** With the blurring of distinctions between various services and technologies, state and local governments must strive to set tax burdens on telecommunications services, property and providers that are no greater than those tax burdens imposed on other competitive services and the general business community.
- 5) **Local Government Impacts:** States need to include provisions to mitigate potential local government revenue impacts associated with telecommunications tax reform.
- 6) **Economic Development:** States need to simplify, reform and modernize state and local telecommunications tax systems to encourage economic

development, reduce impediments to entry, and ensure access to advanced telecommunications infrastructure and services throughout the states.

- 7) **State Sovereignty:** NCSL will continue to oppose any federal action or oversight role which preempts the sovereign and Constitutional right of the states to determine their own tax policies in all areas, including telecommunications.

*Unanimously adopted by the NCSL Executive Committee Task Force on State and Local Taxation of Telecommunications and Electronic Commerce on Monday, July 19, 2004.*

*Unanimously adopted by the full NCSL Executive Committee on Tuesday, July 20, 2004.*